

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

HOWARD C. FEDER

V

ACCESS ONE, INC.

Complaint as to billing/charges)
in Chicago, Illinois.)

Chicago, Illinois

January 10, 2007

Met pursuant to notice at 9:00 a.m.

BEFORE :

MS. EVE MORAN, Administrative Law Judge.

APPEARANCES :

MR. HOWARD C. FEDER,
4333 West Division Street,
Chicago, Illinois 60651,
appeared pro se, telephonically;

MR. JEFFREY S. SOBEK,
820 West Jackson Boulevard,
Chicago, Illinois 60607,
appeared for Respondent.

SULLIVAN REPORTING COMPANY, by
Teresann B. Giorgi, CSR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I N D E X

<u>Witnesses:</u>	<u>Dir.</u>	<u>Crx.</u>	<u>Re- dir.</u>	<u>Re- crx.</u>	<u>By Exmr.</u>
Howard Feder					22
		36			40
Christine Natemeyer	46				51

E X H I B I T S

<u>Complainant's</u>	<u>For Identification</u>	<u>In Evidence</u>
4		40
5		40
6		40

1 JUDGE MORAN: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket 06-0695.
3 This is in the matter of Howard C. Feder versus
4 Access One, Inc. It is the complaint as to
5 billing/charges in Chicago, Illinois.

6 Let me try to connect with the
7 complainant.

8 (Short pause.)

9 MR. FEDER: My name is Howard Feder. I'm at
10 4333 West Division Street, Chicago, Illinois 60651.

11 JUDGE MORAN: And your telephone number?

12 MR. FEDER: 773-394-6480.

13 JUDGE MORAN: Okay.

14 And for Access One, we have an
15 appearance?

16 MR. SOBEK: Yes. My name is Jeff Sobek for
17 Access One. The address is 820 West Jackson,
18 Suite 650, Chicago, Illinois 60607, phone number,
19 312-441-9966.

20 JUDGE MORAN: Okay. And we're doing this
21 evidentiary hearing today by telephone because the
22 first time this case was up on December 12th, 2006,

1 the respondent failed to appear. Mr. Feder did not
2 want to be put through the inconvenience of coming
3 in again. He left with us three exhibits that have
4 been marked for identification as 1, 2, and 3. And
5 I believe that I sent out a letter providing copies
6 of those documents to the respondent.

7 Okay. We're ready to proceed. I'm
8 going to swear you in, Mr. Feder.

9 MR. FEDER: Okay.

10 (Witness sworn.)

11 HOWARD C. FEDER

12 called as a witness herein, and after having been
13 first duly sworn, was examined and testified as
14 follows:

15 EXAMINATION

16 BY

17 JUDGE MORAN:

18 Q And, Mr. Feder, what do you do for a
19 living?

20 A I'm a controller for a food manufacturer.

21 Q And how long have you had that position?

22 A Sometime in 2004.

1 Q Okay.

2 A Two and a half years.

3 Q And you have a complaint against Access
4 One. Can you give me some information as to regards
5 to what you are complaining of?

6 A Okay. A summary or just -- you want me to
7 be specific or --

8 Q Well, why don't you give me a basic summary
9 and then give me some specifics. And I may also ask
10 you questions.

11 A Okay. Basically, I started with Access One
12 in 2005. At that time they did not have data
13 service. So, all I had was telephone service with
14 them.

15 I believe in 2006, they came to me and
16 they provided a contract saying that they could give
17 us data service. I looked at it and it sounded
18 reasonable. They were going to give us data service
19 with our existing telephone service for a flat rate
20 fee. I said, Fine. I signed a contract that this
21 would be okay. And it took them six months to get
22 the materials, you know, shipped to us.

1 And then once the materials got
2 shipped to us, they immediately starting billing me
3 for the service. When I got the bill, the bill
4 didn't coincide with what the agreement said. And I
5 was not getting satisfactory answers and I cancelled
6 my contract.

7 Q When did you receive your first bill?

8 A September 15th.

9 Q And that was September 15th, 2006?

10 A Correct.

11 Q And that was the first time that you
12 noticed that there was a problem?

13 A Yes.

14 Q Okay. You've used the term "us" a lot. Is
15 this service that you're getting from Access One
16 going to more than one person?

17 A Well, this is a business.

18 Q Oh, I see. Okay. So, this is a business
19 line or business package of some sort.

20 A Yes.

21 Q And what is the name of the business?

22 A Swiss Products.

1 Q And what does Swift (sic) Products do?

2 A They make dehydrated food products, like

3 dehydrated soups and gravies.

4 Q Okay. Are they a corporation?

5 A A partnership.

6 Q Oh, a partnership.

7 And you one of the partners?

8 A No.

9 Q You are?

10 A A controller for this company. I am a

11 corporation that is hired by another corporation to

12 do accounting work.

13 Q But you are the controller for Swift

14 Products?

15 A Yes.

16 Q And you had authority to enter into this

17 contract?

18 A Yes.

19 Q Okay. And the contract was in your name or

20 in Swift Products' name?

21 A In Swiss Products' name.

22 THE REPORTER: Excuse me, is it Swiss?

1 JUDGE MORAN: Swift.

2 Q S-w-i-f-t?

3 A No, as in the country.

4 Q Oh, Swiss, as in the country. Thank you.

5 Okay. How did you -- what did you

6 sign up for with Access?

7 A Originally or just --

8 Q Well, give me initially.

9 A Initially, back in 2005, I took my phone

10 service which was then SBC and we went over with

11 Access One, but they could not provide data. So, I

12 kept an existing telephone line with SBC and had my

13 DSL come through there.

14 Q Okay. When you mentioned phone service,

15 what kind of phone service did you have? Just plain

16 old telephone service?

17 A Right, with voice mail. I have a call

18 remote access number that is not really a telephone

19 number, but you dial it and it remotes to my

20 existing telephone numbers.

21 Q Okay. So, that's like a feature on line,

22 am I correct?

1 A I don't know if that's right for now.

2 Q Well, we'll explore that with the

3 Respondent.

4 Did you have just one line?

5 A No, I have -- I gave them -- I have six. I

6 gave them five of them.

7 Q Okay. So, you got service on five lines

8 initially from Access One. You kept one of the

9 lines for DSL and you were being served by SBC for

10 that.

11 A Correct.

12 Q Thank you.

13 Okay. And then what happened in 2006?

14 A 2006, Access One came to me with a contract

15 saying that they can provide data service for a flat

16 rate fee. And the flat rate fee was \$399, plus

17 taxes. And it was going to incorporate all my

18 services.

19 The contract came to me preprinted.

20 They came to me with a preprinted contract with all

21 the information. They had my existing phone

22 service. And then all we were going to do was

1 incorporate the line that was on SBC and give it to
2 Access One and put voice mail on that number. And
3 that's how the contract was written.

4 Q Okay. So, in other words, Access was going
5 to serve all six lines, correct?

6 A Six lines, plus one call forwarding number.

7 Q With one line having the call forwarding
8 number.

9 A Right. Which they already had all that.

10 And then they were going to give us
11 data.

12 Q Okay. Were they going to give you data on
13 all the lines?

14 A Well, the way they do it, they do it on
15 what's called -- what they call -- I don't know
16 the -- they use the word "T1." So, that is a
17 different mechanism than DSL.

18 Q But, were you going to be able to get data
19 service on all six lines?

20 A Well, they made it sound like once they
21 installed this T1, you know, you didn't need a
22 particular telephone number to get the data, the T1

1 was going to give us the data. And the T1 was then
2 going to feed our telephone service.

3 Q I see. Okay. And then what was the
4 problem on September 15th? You received a bill?

5 A Yes.

6 Q And the bill was for how much?

7 A Like \$1200.

8 Q And what was the term of the bill -- I
9 mean, what periods did this \$1200 bill cover?

10 A It looks like they were billing me for a
11 month and a half of the \$399 rate for the data. So,
12 that would be like 600 and some dollars. And then
13 the balance of the bill was my existing telephone
14 service, which averaged like \$400. That would be a
15 thousand. And then another 200, I don't recall how
16 that broke down.

17 Q Okay. Do you have a copy of that bill?

18 A I think I do.

19 Q You didn't bring it last time. I don't
20 have copies of it.

21 Can you possibly fax it over to the
22 office here?

1 A Correct.

2 Q -- am I correct?

3 That we amend the caption of this case

4 to read, Howard C. Feder on behalf of Swiss

5 Products, L.P. And I am doing that on my own

6 motion.

7 Do I hear any objections?

8 MR. SOBEK: No, no objection.

9 JUDGE MORAN: Okay.

10 Q You have -- the last time you were here,

11 you brought in some documents, which we had marked

12 as Feder Exhibit No. 1, Feder Exhibit No. 2, and

13 Feder Exhibit No. 3, all for identification.

14 Do you have those documents in front

15 of you?

16 A Hold on.

17 Yes, I do.

18 Q Great.

19 Can you tell me what Exhibit 1 is?

20 A Exhibit 1 --

21 Q It has those handwritten markings at the

22 top.

1 A Exhibit 1 is the preprinted contract that I
2 originally signed at this office on April 11th.

3 Q It's the preprinted contract you signed on
4 April --

5 A April 11th.

6 Q And what do you mean you signed in that
7 office?

8 A They came to me with this -- four pieces of
9 paper, that I'm showing you, and I signed it,
10 agreeing that this would be the price, Circuit
11 Charge 1, 399. And then on the left side, 1 cent a
12 minute for Band 1; 1.5 cents a minute for Band 2;
13 2 cents a minute for Band 3, and the 7 telephone
14 numbers. And on Page 3 they list all my telephone
15 numbers.

16 Q Okay.

17 A And then Page 4 is the data service
18 information.

19 Q And then what is Exhibit No. 2?

20 A Exhibit No. 2 is the contract that they
21 took from this office and they changed it. And on
22 Page 2 they changed my telephone number from 7 to 6.

1 They changed the ANI to be assigned to as a BTN.
2 And on Page 3 they did some other adjustments, and
3 all this without my knowledge.

4 Q So, you are saying this is -- this
5 contract, which seems to be signed by --

6 A By me.

7 Q -- by you and also by the carrier, has
8 changes that you did not see when you signed the
9 first contract.

10 A Right.

11 Q And what is Exhibit No. 3?

12 A Exhibit 3 are copies of correspondence
13 between myself and the Counsel for Access One.

14 Q Okay. And as I note here, Mr. Sobek is one
15 of the parties that is noted in this correspondence,
16 am I correct?

17 A Yes.

18 Q And what is the essence of your complaint,
19 Mr. Feder?

20 A That contract was invalid and that was my
21 reason for cancelling it.

22 Q Okay. And have you already cancelled the

1 contract?

2 A Yes.

3 Q And when did you do that?

4 A I believe I did that, like, September 15th,
5 17th, somewhere around there, September 20th. Let's
6 see, I've got an e-mail, September 21st from
7 Access One. So, I must have done it that day or the
8 day before.

9 Q Can you repeat that date? I'm sorry.

10 A Okay. It looks like somewhere around
11 September 19th or 20th I must have notified them
12 that I'm cancelling the contract.

13 Q Okay. And you were cancelling that
14 contract on behalf of Swiss Products.

15 A Correct.

16 Q Okay. And you cancelled that at the
17 request of the partnership?

18 A No, I cancelled it because I realized I was
19 not getting information from Access One for why the
20 bill was so high. It was so out of line with the
21 contract. And I had correspondence and I was not
22 getting, you know, good answers. I was getting a

1 slang term, like, "snowballed." I was getting, you
2 know, very ambiguous answers.

3 And at the time I did not know that
4 they had a different contract. I just knew there
5 was a problem.

6 Q So, when you first had saw that bill, that
7 first bill for service, you were concerned that it
8 was out of line with the contract.

9 A Correct.

10 Q And you initiated some correspondence with
11 Access One --

12 A Yes.

13 Q -- and tried to resolve it with them?

14 A Right.

15 Q I'm going to stop my questioning, unless
16 there's something you really want to say,
17 Mr. Feder?

18 A Not at this moment.

19 Q Okay. I may still have further questions
20 for you, but I'm going to let Mr. Sobek
21 cross-examine you now. What that means is he will
22 be asking you questions.

1 A All right.

2 JUDGE MORAN: Thank you.

3 CROSS-EXAMINATION

4 BY

5 MR. SOBEK:

6 Q Mr. Feder, this is Jeff Sobek.

7 A Yes.

8 Q I guess the main question I have is, your

9 claim is that we changed the contract?.

10 A Correct.

11 Q But when I look at the contract the only

12 thing that was changed are technical issues for us

13 to be able to install the IVAD circuit.

14 So, my question is, is there anything

15 material that you claim was changed?

16 A Well, that's material enough. The fact

17 that you make any changes without my approval is

18 material enough.

19 Q Are you the one that -- on the first

20 contract, marked as Exhibit A, are you the one that

21 gave us the ANI, the billing telephone number of

22 312-829-0100?

1 A No. That came to me preprinted. All that
2 writing is from your company. All I did was sign it
3 and put initials on the first page. Everything else
4 is your company's handwriting, typed up.

5 Q So, by signing it, you agreed that it was
6 correct?

7 A I was given seven numbers. You had my
8 existing service. Your company knew about my call
9 remote forwarding. They knew about my other five
10 numbers. They knew I was transferring one over.
11 Yeah, that's what I was agreeing to.

12 Q So, by signing this you agreed that the
13 information on the this paper was correct.

14 A Yes.

15 Q And then on the one -- and you understand
16 that a remote call forward number, our CF number
17 doesn't reside at your location?

18 A No, I don't understand that. It's a
19 technical issue. It's beyond my knowledge. I just
20 know that I have seven numbers. These are the seven
21 numbers.

22 Q So, when you signed this paperwork and you

1 asked us to port your remote call forward number to
2 it -- to the PRI, you understand that if we had done
3 that you would have been without phone service.

4 A I don't -- this is technical issues that I
5 do not understand.

6 All I'm saying is that your company
7 had my services. And then your company came to me
8 and gave me this contract, preprinted, gave me the
9 impression that this was an easy thing to do, and I
10 signed it under that impression.

11 Q Do you have anyone that does -- like a
12 phone vendor --

13 A No.

14 Q -- for your telephone?

15 A No.

16 Q Is there someone in your company that's in
17 control of that?

18 A No. That's why we hired somebody through
19 your company to do this for us.

20 Q But you understand what the terms and
21 conditions that you received, that Access One
22 provides the phone service. They don't provide the

1 installation of the service. And there's no way for
2 them to be experts on your phone equipment and
3 service.

4 A You're starting to get into an area that's
5 beyond a normal situation.

6 This is a contract. Your company came
7 to me with my existing phone service, came to me
8 with this contract and the only change was going to
9 be was offering data. You already had my call
10 remote service. You already knew about it. You
11 gave me no explanation that this was going to cause
12 a problem. So, why would I know? You're the
13 experts in the communications field.

14 MR. SOBEK: I don't really have any other
15 questions.

16 JUDGE MORAN: Okay. Why don't we take a
17 five-minute break, how about that, Mr. Feder? That
18 will allow me to go get the bill --

19 THE WITNESS: Okay.

20 JUDGE MORAN: -- and have that marked. And I'll
21 call you back.

22 THE WITNESS: Okay.

1 JUDGE MORAN: You will be there?

2 THE WITNESS: Yes.

3 JUDGE MORAN: Okay. Thank you.

4 THE WITNESS: Okay. Thank you.

5 (Whereupon, a short

6 recess was taken.)

7 (Whereupon, Complainant's

8 Exhibits 4, 5, and 6

9 were marked for

10 identification.)

11 FURTHER EXAMINATION

12 BY.

13 JUDGE MORAN:

14 Q Are these the bills that you're concerned
15 with?

16 A The invoice that's September 1st and the
17 invoice with October 1st are two primary bills.

18 Q Okay. I'm not sure that I have -- well,
19 maybe I do -- all the documents I'm looking at,
20 indicate an invoice date of 10-1. And one,
21 actually, goes into 11-1 -- oh, wait, I do have --
22 the document that we've marked as Complainant's

1 Exhibit No. 5, is showing an invoice date of 9-1.

2 A Okay.

3 Q And that's that four-page document.

4 And then Complainant Exhibit 6 goes
5 back to the 10-1-2006 billing date.

6 Okay. And what is important about
7 these bills?

8 A Well, this is my first notification that
9 there was a problem.

10 Q I see.

11 A When I got the first bill with the invoice
12 date of September 1st for \$741, I knew there was a
13 problem.

14 Q Did you ask Access One for an explanation
15 of the bill?

16 A Yes.

17 Q And what happened?

18 A They told me at first it would take three
19 days to research the situation, and I waited three
20 days, and they still didn't have an answer for me.
21 And that's when I became proactive and realized I
22 had a major problem on my hands and I cancelled the

1 contract.

2 Q And what is the position on that contract
3 now, is it cancelled?

4 A Yes.

5 Q And who do you have phone service from now?

6 A AT&T.

7 Q So, your main complaint is that bill for
8 the period of time that you had service from
9 Access One.

10 A No. My major complaint is that they're
11 billing me inappropriately or incorrectly or however
12 you want to phrase it. The bill is not correct.

13 Q Well, are they billing you now, or are we
14 talking about these bills --

15 A They're still billing me for this unpaid
16 balance that I left open with them.

17 Q What is the unpaid balance?

18 A I'm going to guess at \$1200.

19 Q So, when you got your first bill was a
20 payment made?

21 A A partial payment.

22 Q And when you got the second bill?

1 CHRISTINE NATEMEYER,
2 called as a witness herein, and after having been
3 first duly sworn, was examined and testified as
4 follows:
5 DIRECT EXAMINATION
6 BY
7 MR. SOBEK:
8 Q For the record, can you state your name,
9 your employer and your employer's address?
10 A My name is Christine Natemeyer. I work for
11 Access One --
12 JUDGE MORAN: Spell your last name.
13 THE WITNESS: It's spelled, N -- as in Nancy,
14 -a-t-e-m-, as in Mary, -e-y-e-r.
15 JUDGE MORAN: And I'm going to ask you to speak
16 up because Mr. Feder is here by telephone.
17 THE WITNESS: Sure.
18 JUDGE MORAN: And, in fact, you may want to sit
19 here.
20 THE WITNESS: Okay.
21 JUDGE MORAN: That might be a little better.
22 THE WITNESS: I work for Access One and our

1 address is 820 West Jackson Boulevard, Suite 650,
2 Chicago, Illinois 60607.

3 MR. SOBEK: Q And what is your position with
4 Access One?

5 A My position is a client executive.

6 Q Can you explain what you do in that
7 position?

8 A Sure. I work with customer retention,
9 revenue retention. And I also work on adding new
10 products and services for our customer -- existing
11 customer base.

12 Q How long have you been with Access One?

13 A Three and a half years.

14 Q And part of your responsibilities of
15 selling products and services, are you familiar with
16 the IVAD product?

17 A Yes.

18 JUDGE MORAN: Can you state that product again?

19 THE WITNESS: Sure. "IVAD" stands for
20 integrated voice and data. It's a circuit that
21 allows a customer to port both their land POTS lines
22 and their Internet over one single dedicated

1 circuit.

2 MR. SOBEK: Q Can you tell us about your
3 experience with customers who have current POTS
4 service that want to add data and how an IVAD might
5 help that situation?

6 A Well, a lot of our customers are paying
7 increasing prices for their POTS service. Since we
8 are a reseller, we do sell by the line charge and
9 line charges have been increasing from the wholesale
10 prices that we pay. So, one advantage -- and
11 customers are also having DSL service, which is not
12 quite as quick or as secured as a circuit or a
13 dedicated product.

14 So, what the IVAD does is that it
15 allows the customer to not be responsible for the
16 line charges any more because they port their POTS
17 or land lines onto the circuit as well as dedicated
18 Internet speed, which are both quicker and more
19 secured and cost effective, because they don't have
20 to pay a charge per line, they just pay a charge for
21 the circuit, which capsulates both services.

22 Q And when you go to a current Access One

1 customer to, maybe, explain to them what you just
2 explained to us, is there anything the customer must
3 do to -- say, they do want to purchase the IVAD, is
4 there anything they must do?

5 A Well, they must sign paperwork, which will
6 enlist all of the numbers that they want ported onto
7 the IVAD. Also, on our paperwork we ask for vendor
8 information because we do not supply a vendor
9 automatically. And this is somebody who is familiar
10 with their equipment so that they can -- we only
11 bring the service up to the demark. We need
12 somebody to take it from that point up to their
13 equipment and program their equipment to be
14 compatible with the circuit. So, we do get vendor
15 information.

16 We can supply a vendor, if asked. We
17 do work with a company that -- called OPC
18 Communications, that does a lot of our vendor work.
19 We are contracted with them and we do recommend them
20 highly.

21 Other than that, we get as many of the
22 technical specifications as we can. And we have the

1 customer sign off on all the information that we've
2 received and then we submit it to our order
3 processing department.

4 Q You say that you get as many technical
5 specifications as you can. Since Access One is a
6 carrier, already carrying a customer service, why do
7 they not have all of the information?

8 A No, definitely not. And we actually -- we
9 get as much of the technical information as we can
10 to help our order processing department because that
11 more falls on their shoulders. They are the ones
12 who contact the vendor. They're the ones who are
13 more equipped to ask those technical questions. We
14 get as many as we feel that we're comfortable
15 explaining to the customer and getting at that time.

16 Technically, we really don't have to
17 get anything but the vendor's name and telephone
18 number.

19 Q And so when you go out to this customer, is
20 it possible to fill out part of the paperwork, get
21 more of the information from the customer and if so,
22 what, you know -- can you explain that?

1 A Yes. We get as much information as the
2 customer is comfortable giving or knows about, such
3 as telephone numbers, how their account is currently
4 set up. Sometimes they will get us in touch with
5 their IT person. But, with what we do have and with
6 the pricing is what, basically, the customer signs
7 off on, is the pricing that we have quoted to them.
8 And then we confirm all of the other specifications
9 through confirmation calls and telephone calls.

10 Q I think you said the paperwork is signed
11 off after it's completed, is that correct?

12 A At the time of sale?

13 Q Yes.

14 A After everything is completed?

15 Q No, after the paperwork at the time that
16 you present to them is signed.

17 A Yes. Yes.

18 Q And then I think you explained this, but
19 what happens if the customer -- you say they give
20 you the information, they give you vendor
21 information. I believe you said it goes to the
22 operations department. What if there's information

1 that's not correct? What happens at that point --
2 operations finds on the paperwork that, say, this is
3 going to cause a circuit not to work?

4 A Then it would be returned to the point of
5 sale. It would either be returned to myself to get
6 back in touch with the customer or if it's a
7 technical piece that isn't compatible, then, it
8 would get returned to order processing to contact
9 the vendor.

10 Q They wouldn't just install a circuit that
11 they knew that wasn't going to work.

12 A No, because we would never do that. We
13 always test our circuits before we turn them up. We
14 make test calls on them before we port the lines
15 over to them.

16 Q But if the customer gave you paperwork with
17 incorrect information and then signed it saying
18 this is what I want. And you handed it to our
19 technical group and they said, "Well, this isn't
20 going to work what you signed off on, we wouldn't
21 just install the circuit so that it didn't work, is
22 that correct?

1 A Right -- well, it's hard to say. I mean,
2 if we have certain numbers that are listed and we
3 know that those are the numbers and if that's what
4 we're being told to do, then we would -- I mean,
5 unless there is a huge reason why something would be
6 incompatible, if we believe -- we have numbers that
7 are signed off on that could go to an IVAD, then I
8 wouldn't see any reason why they wouldn't be able to
9 port it to the IVAD.

10 Q For example, if there's a number that
11 couldn't be ported to an IVAD, we would not port it.

12 A Right, that's correct.

13 MR. SOBEK: I have no further questions.

14 JUDGE MORAN: I have some questions right off
15 the bat.

16 EXAMINATION

17 BY

18 JUDGE MORAN:

19 Q The charges for telephone service, are
20 those under tariff by this Commission -- or pursuant
21 to tariff by this Commission?

22 A Yes.

1 Q Have you, or anyone in your company,
2 examined the bills that Mr. Feder received when he
3 changed service in September of 2006?

4 A I'm sure that somebody has reviewed them.
5 I, personally, have not reviewed them.

6 MR. SOBEK: Would she be capable of explaining
7 the bill, if that's your question?

8 THE WITNESS: That is one thing that I do after
9 I sell a product.

10 JUDGE MORAN: Yes.

11 THE WITNESS: I'm willing to go out and explain
12 a bill to a customer, explain the charges.

13 JUDGE MORAN: Well, that's excellent.

14 Q I'm going to show you what has been marked
15 Complainant's Exhibit No. 4, Complainant's Exhibit
16 No. 5, and Complainant's Exhibit No. 6. I say that
17 hesitantly only because Exhibit No. 6 may properly
18 belong under Exhibit No. 4, because I notice the
19 invoice dates appear to be the same, although
20 Exhibit No. 5 tends to be a different date.

21 Can you spend a few minutes looking at
22 this and then, possibly, take some questions from me

1 on those documents.

2 MR. SOBEK: And one thing, to me, I think she
3 needs to understand, the customer had seven POTS
4 line, as he said, one of them was a remote call
5 forward and then ported it on IVAD. What happened
6 is, six of those numbers ported the IVAD and then
7 there's one left. That's what you'll see on the
8 bill. You'll see POTS lines and you'll see IVAD
9 lines.

10 JUDGE MORAN: Well, it might be a good idea for
11 the witness to also look at Exhibits 1, 2, and 3
12 here.

13 You have copies of those?

14 MR. SOBEK: I do.

15 JUDGE MORAN: Why don't you --

16 MR. SOBEK: Exhibit 1 is the paperwork that was
17 filled out at point of sale (indicating).

18 THE WITNESS: Right.

19 MR. SOBEK: Exhibit 2 is what was faxed to him.
20 I circled some places in red. What happened is,
21 originally the remote call forward number was listed
22 as a BTN, that couldn't be ported, so it was changed

1 to six. So, there's changes on here you'll see that
2 you're familiar with (indicating).

3 THE WITNESS: Yes.

4 MR. SOBEK: And I think this is just
5 correspondence (indicating).

6 I think you just got --

7 JUDGE MORAN: You know, let's keep this off
8 record, whatever discussions they're having.

9 (Whereupon, a discussion
10 was had off the record.)

11 MR. SOBEK: The billing part and the process
12 where you signed up.

13 MR. FEDER: Okay. Let's start with the process
14 where I signed up.

15 First, originally, Access One had five
16 POTS line and a call remote service. Then you came
17 to my company in '06, and you offered data.

18 MR. SOBEK: Can I interrupt real quick?

19 MR. FEDER: Yeah.

20 MR. SOBEK: Was it six POTS line and one remote
21 call forward?

22 MR. FEDER: Five. Five POTS lines and one call

1 remote forwarding, SBC for my DSL back in '05, when
2 I first initially signed up with Access One.

3 MR. SOBEK: Okay.

4 MR. FEDER: Under the current contract your
5 company came to me with a representative, who is no
6 longer with you, I think his name was Jeff Mote
7 (phonetic). He came to me with a preprinted
8 contract, which is Exhibit 1, and he told me for a
9 flat fee of \$299, I would have all my existing
10 service, plus data, plus taxes. He told me, you
11 know, roughly with taxes it might be \$100. So, I'd
12 be looking at no more than \$500 for a telephone
13 bill.

14 I signed this on April 11th. Nothing
15 happened. I called over several times during the
16 month and Jeff Mote was still working at the
17 company. The last time I talked to him was in June.
18 He told me the IVAD is coming. The IVAD is coming.
19 And it finally arrived in August.

20 I got an e-mail from Krista, notifying
21 me that the IVAD has been up and running. And I
22 told her, I said, It's in the UPS box. I don't have

1 it connected. She said on their end it's up and
2 running and I'm going to be billed for it starting
3 August 17th. And I told her, verbally, that's not
4 right.

5 So, I get my IT person in. And we get
6 the IVAD hooked up for data only, I think, by
7 September -- let's say just right after Labor Day I
8 finally got it hooked up. My IT man was out of
9 town.

10 Then I got the bill a week later
11 before leaving -- and I knew right away something
12 was not right. And that's where, you know, I called
13 up Access One and I filed a billing complaint. And
14 nothing happened for three days. And I couldn't get
15 any decent answers. I had no choice but to cancel
16 the contract.

17 MR. SOBEK: A question I asked earlier is if you
18 had anybody that did your phone service, an IT, and
19 you told me, "no." And you just told me now that
20 you had an IT person come out and hook up this
21 contract.

22 MR. FEDER: He's not a phone person. You

1 originally asked me about phone service.

2 MR. SOBEK: But, in hooking up -- okay, I
3 understand.

4 Go ahead.

5 THE WITNESS: So, are you saying that the
6 circuit was just turned up and you had no
7 notification of it and no conversations with anybody
8 from Access One between the point when they -- when
9 you spoke with Jeff and when you spoke with Krista?

10 MR. FEDER: I got an e-mail from Krista on
11 August 17th and that's when I realized -- the e-mail
12 told me that I was going to start receiving a bill
13 starting August 17th. And I called up Krista and I
14 said, Don't bill me because the thing is sitting in
15 a box. For five months I've been waiting for this
16 box. It finally got there. But my data IT man is
17 out of town.

18 THE WITNESS: Right.

19 Was there ever a point when Access One
20 set up a vendor to come out and set up the IVAD for
21 you?

22 MR. FEDER: No.

1 JUDGE MORAN: Let's go off the record now.
2 (Whereupon, a discussion
3 was had off the record.)
4 JUDGE MORAN: We're back on the record now.
5 THE WITNESS: There was a point when -- is the
6 vendor noted on your paperwork, is that your IT
7 person?
8 JUDGE MORAN: You're putting a question to
9 Mr. Feder.
10 MR. FEDER: Okay. What exhibit are you looking
11 at?
12 THE WITNESS: John Knapp (phonetic), is that
13 your --
14 MR. FEDER: No, that's who I hired -- I hired
15 him through a referral from Access One.
16 JUDGE MORAN: What are you looking at,
17 Ms. Natemeyer?
18 THE WITNESS: I'm sorry. I'm looking at Exhibit
19 No. 1, Page 2 of 3. On the bottom, on the
20 right-hand corner it says "2 of 3."
21 And did John Knapp actually come out
22 to help connect the IVAD?

1 MR. FEDER: No. I don't know what he did, to
2 tell you the truth. He came here and talked to my
3 IT person and that's all I'm aware of.

4 JUDGE MORAN: Who is your IT person?

5 MR. FEDER: Who is he or where is he?

6 JUDGE MORAN: Who is he?

7 MR. FEDER: Oh, he's a person that works for
8 this company.

9 JUDGE MORAN: But what's his name?

10 MR. FEDER: Andreas.

11 JUDGE MORAN: And is Andreas there?

12 MR. FEDER: No. He's a consultant. I have to
13 pay to bring him out there.

14 JUDGE MORAN: So, he doesn't work strictly for
15 the company.

16 MR. FEDER: No, not at all.

17 JUDGE MORAN: I see. Okay.

18 Q Continue.

19 A The reason I'm asking is because this order
20 was actually returned to me before Krista turned up
21 the circuit, because, I believe, John Knapp was
22 unable to either answer some of the technical

1 questions that we needed to proceed with the order,
2 or unable to hook up the IVAD to the circuit. And I
3 believe that Jeff Mote had told Mr. Feder that we
4 would supply a vendor for him.

5 And as I had explained before, we do
6 work with a company called OPC. And they do go out
7 and hook up all of our on-net IVADs, which is the
8 product that is not resold. And I placed an order
9 to have OPC come out and complete that vendor work
10 so that the circuit would be functional.

11 Q And when did they complete that work?

12 A That I'm not positive of. I wanted to say
13 August or September, but I am not positive of the
14 date.

15 Q Okay. I am making an ALJ data request that
16 you provide me with that date after this hearing.

17 A Sure.

18 Q And that will be ALJ Data Request No. 1.

19 A My point of bringing that up is, if our
20 vendor did go out and connect the IVAD, there
21 shouldn't be any problems.

22 Q There shouldn't be any problems in terms of

1 what?

2 A Of it working and billing. It would
3 depend, again, on the dates that this order was
4 cancelled.

5 Q "Order was cancelled," what does that term
6 mean?

7 Are you talking about when the
8 contract was cancelled?

9 A Yes. Sorry.

10 Q That's okay. You've got to be very, very
11 specific here because we're using a lot of terms and
12 comments.

13 MR. SOBEK: When OPC completes the agreement,
14 does Swiss Products' IT person need to do anything,
15 or should it be functional at that point?

16 THE WITNESS: It would depend on the system. I
17 think that it should be functional at that point. I
18 know that they always do like to work with an IT
19 person, but. . .

20 JUDGE MORAN: Let me ask you a few questions.

21 Q What is the problem with this bill -- or
22 what makes it an unusual bill, the first bill that

1 came out? Was it because you were charging from the
2 time that you got -- Mr. Feder's company got
3 service, but prior before the connection was made,
4 is that part of the problem?

5 A Um --

6 Q Evidently --

7 MR. SOBEK: There's charges for both the IVAD
8 and the POTS.

9 THE WITNESS: Right.

10 MR. SOBEK: If you want to explain that more,
11 but I believe that's -- we charge once the IVAD is
12 dropped off, but the POTS have not been
13 disconnected.

14 THE WITNESS: Right.

15 MR. SOBEK: If you want to point that out.

16 THE WITNESS: Once we accept a loop for the IVAD
17 we start billing for the circuit. The POTS lines
18 are still POTS lines, and we are being charged for
19 those. So, we do pass by the reseller, by AT&T, we
20 do pass that charge along until they are ported onto
21 the IVAD. Then we would no longer charge for those
22 POTS lines. But as long as the IVAD is active, as

1 long as it's accepted, the loop is accepted, that
2 will be billed.

3 JUDGE MORAN: Q And is that what makes this
4 bill higher than what Mr. Feder expected --

5 A Yes.

6 Q -- at his \$399?

7 A Yes.

8 Q And the problem being that the IVAD was not
9 connected.

10 A Yes -- the problem being that the POTS
11 lines had not yet been ported over to it.

12 Q To the IVAD --

13 A Right.

14 Q -- because the IVAD had not been connected.

15 A Right. But it was accepted, so it was
16 running, but not connected.

17 Q Right.

18 And whose responsibility is that?

19 A For the IVAD to be connected? That is the
20 responsibility of the customer.

21 Q And was that made clear to Mr. Feder?

22 A At the point of sale?

1 Q Yes.

2 A I would hope so. I was not there. I do
3 not know. But that is something that we -- I always
4 make my customers aware of.

5 Q Okay. Is there anything in the contract
6 that would show that that was communicated?

7 A I would have to refer to Jeff for that.

8 MR. SOBEK: There's terms in the agreement that
9 says that Access One isn't responsible for the
10 connection, but there's not -- let me --

11 JUDGE MORAN: And where is that?

12 THE WITNESS: I have dealt with this question
13 many times because I used to work in our local
14 department.

15 JUDGE MORAN: Yes.

16 THE WITNESS: And it works the same way.
17 When we install a POTS line,
18 Access One is only responsible for the POTS line up
19 to that demark. That is where AT&T/SBC and
20 Access One drops the line. The customer is
21 responsible for everything from that point.

22 As a courtesy -- we do offer a vendor,

1 OPC Communications, as a courtesy, to get from the
2 demark location to their equipment. But I know that
3 I've had many, many questions and I'm not familiar
4 with the contract, like the back of my hand, but I
5 do know that in the terms and conditions I have
6 referred to it at some point, it is covered, that
7 the customer is responsible for everything on its
8 side of the demarcation point.

9 Q And where is that reflected on the billing?
10 In other words, these charges that --

11 A Sure.

12 Q -- that would not be normally incurred if,
13 in fact, the IVAD was connected?

14 If your attorney has better copies of
15 the bills, he can put those in.

16 A You're asking for where the customer would
17 be responsible for the charge beyond the demarcation
18 point, where that's reflected in the bill?

19 Q I'm trying to figure out where are the
20 charges that are beyond what Mr. Feder assumed was
21 the contract. He testified here today, I believe,
22 that it was \$399. That that was the price quoted to

1 him. Is that the complete price, or are there
2 additional charges?

3 Can someone look at this contract and
4 tell me that?

5 And then, assess for me what is
6 outside the contract that is reflected on the bill.

7 A Okay. Right here is the monthly -- I am
8 referring to Exhibit No. 2, the first page.

9 Q Okay. Hold on. Okay.

10 A The circuit charge is one for \$399. We
11 waived the 110 installation fee of that circuit.
12 What is included in that is their Band 1 and 2
13 calling, because it is an all you can talk.
14 Everything beyond that, which is BNC, which is 8 to
15 15 miles and long distance, the rates are noted.

16 At this point when it was understood
17 that they had seven lines, our base package for a
18 circuit is six lines and five 12K of Internet band
19 width. So, the additional voice line is \$4 per
20 line.

21 If you look at the next page --

22 Q So, that means the circuit charge is good

1 for four lines?

2 A For six.

3 Q For six.

4 A Correct. And five 12K of band width. It's
5 our base package that you can build on if you need
6 to.

7 Q Okay.

8 A What is important to note is on the next
9 page of Exhibit 2, Jeff wrote in, "extend demark,
10 no." That means that the circuit will be dropped at
11 the demarcation point and the customer is
12 responsible for everything from that point to their
13 equipment, to their phones and their Internet.

14 If it said, "yes," then the customer
15 is authorizing Access One to go beyond that
16 demarcation point to the equipment, but not
17 connected with the equipment, but bring it up to the
18 phone room and where the equipment is housed. But,
19 since it says "no," we leave it at the demarcation
20 point.

21 Q What else is significant?

22 A Another thing that is significant is on

1 Exhibit 4, the October 1st invoice, which is an
2 Access One bill, on Page 3 of that document you will
3 note, towards the bottom above "outbound calls," a
4 nonrecurring charge of \$395 for an OPC vendor trip.
5 That \$395 was authorized for me when I set up OPC to
6 go and bring the circuit from the demarcation point
7 to the customer's equipment.

8 Q And this vendor trip --

9 A Yes.

10 Q -- this OPC, is that accounted for anywhere
11 in the contract or is that a separate order or what?

12 A That was --

13 MR. SOBEK: The invoice recording software?

14 THE WITNESS: Yes. And through e-mail, to which
15 I have record of.

16 JUDGE MORAN: Q Then, you will want to put that
17 into the record.

18 A No problem.

19 So, that 395, obviously, is going to
20 increase the bill quite some bit.

21 But, yes, I do come across this where
22 I will sell a circuit and we do charge for the POTS

1 lines while they are still active and then --
2 because it does take 30 to 45 days to completely
3 install a circuit. So, once the POTS lines are
4 ported over to that circuit it is then that we stop
5 billing. And customers do usually do have a higher
6 bill because they have nonrecurring charges and
7 installation fees.

8 The \$399 that we do quote for the
9 IVAD, the bill does eventually go back down in level
10 after that. And we do -- after the nonrecurring
11 charges and after the POTS lines are ported, you
12 would just see that circuit MRC.

13 But, it does take a couple of billing
14 cycles because it does take 30 to 45 days to install
15 the circuit and to get lines ported over.

16 Q Okay. Do you have a complete copy of the
17 bills for Mr. Feder -- do you have this in
18 Mr. Feder's name, or do you have this in Swiss
19 Products' name, this bill for this account?

20 A Swiss Products and then we put a -- when we
21 address a bill, we put the company name and then the
22 person. So, both names are on the cover.

1 Q Okay. I see.

2 Do you have complete copies of the
3 bills?

4 MR. SOBEK: I can provide you with that. I
5 don't have them with me.

6 JUDGE MORAN: Okay. That will be --

7 MR. SOBEK: Complete from what date until what
8 date?

9 JUDGE MORAN: Well, I would expect that it would
10 be from the month before the contract was signed up
11 through -- what's Swiss Products or Mr. Feder's
12 position on this contract now?

13 Have you cancelled the contract?

14 MR. SOBEK: The contract is cancelled because
15 the circuit was ready for use. He's liable not only
16 for the cost -- you know, any cost that he incurred
17 prior to cancellation and then an early termination
18 fee for terminating the circuit early, because it
19 was installed and ready for use.

20 JUDGE MORAN: Okay. And what is --

21 MR. SOBEK: We did notify him that, you know,
22 that he was cancelling because he said, I want to

1 cancel my service. And we notified him that if he
2 did cancel his service, he would be liable for these
3 early termination charges. But, if he would prefer,
4 he could bring the services back up and we weren't
5 going to charge him any early termination fees.

6 I'm not sure if that's in the record,
7 but. . .

8 JUDGE MORAN: Q Okay. I certainly need to know
9 from you and I hope you have this information, as to
10 when you got notice of cancellation. When you
11 finally did cancel service.

12 A We do keep records of everything.

13 JUDGE MORAN: Does the company have tariffs on
14 file for all these procedures?

15 MR. SOBEK: They do.

16 JUDGE MORAN: Okay. So, I assume you'd want to
17 make a showing that everything you've done here is
18 consistent with your tariffs, because that is the
19 prominent jurisdictional basis at this Commission.

20 And I would expect that all that would
21 be in ALJ Exhibit No. 2 -- I mean, ALJ Data Request
22 No. 2. Excuse me, I misspoke.

1 MR. SOBEK: Make all of that a single data
2 request?

3 JUDGE MORAN: Yes.

4 So, what is the amount that we're
5 talking about here, in terms of whatever remains on
6 the bill and what the cancellation charges are.

7 MR. SOBEK: Mr. Feder, do you have that number?

8 JUDGE MORAN: Mr. Feder?

9 MR. FEDER: Yes. I have a -- I have not
10 received a bill for this month. I'm sure I'll get
11 it in a few days. But, my calculations are about
12 \$1255.50.

13 JUDGE MORAN: There's \$1255 on the bill?

14 MR. FEDER: No, that's the balance due.

15 JUDGE MORAN: That's the balance due on the
16 bill, or is that with cancellation charges?

17 MR. FEDER: Well, with cancellation charges. I
18 think they charge \$695 cancellation fees.

19 MR. SOBEK: Would you like the letter -- a copy
20 of the letter that was sent to him when we heard
21 about the cancellation, saying, You need to return
22 your services. Do you want that now, or do you want

1 that as far --

2 JUDGE MORAN: Whatever you want to make part of
3 your record. You've got to understand that you need
4 to make your record.

5 MR. SOBEK: I'm going to enter this.

6 JUDGE MORAN: You just mark it "Respondent,"
7 you're the Respondent. So, it would be Respondent
8 Exhibit No. 1, for identification.

9 We will have to fax a copy to
10 Mr. Feder so that he knows what it is and he can,
11 obviously, object, as you have the right to object
12 to any of these exhibits that Mr. Feder has put out
13 here.

14 I think this letter may be an exhibit
15 here. It may already be in.

16 (Short pause.)

17 JUDGE MORAN: Yes. This letter is part of
18 Complainant's Group Exhibit No. 3.

19 MR. SOBEK: Okay.

20 JUDGE MORAN: You do not need to put that into
21 the record.

22 I'm not certain, also, that this

1 Commission has any jurisdiction in terms of
2 contract. You know, what is at issue here is a
3 contract between Access One and Mr. Feder.

4 The concern of this Commission, as I
5 understand it, is billing and any improper charges.
6 And, therefore, that's where the parties have to
7 direct their energies and their showings.

8 We have to know -- or this Commission
9 has to be apprised of the fact that all the charges
10 are correct, according to the tariffs that are on
11 file. And that the charges stem from other actions
12 or inactions by the complainant that were, in fact,
13 explained to him. So, that's where the emphasis is.

14 Do you understand that, also,
15 Mr. Feder?

16 MR. FEDER: There are things that were said that
17 I was not aware of. My salesman never informed me
18 about this specification of charges. I never had
19 any communication with Access One during the five
20 months until the e-mail of August 17th. So, there
21 are objections there because my salesman did not
22 explain this to me, nor did the company try to

1 explain this to me before I cancelled. I gave them
2 three days.

3 The woman who's there says she comes
4 out and explains this to customers. I asked for
5 someone to come out and they did not. So, you know,
6 my objections are that I did diligently -- did
7 everything in my powers to keep this contract
8 intact. But, because Access One would not give me
9 information, I had no choice. And then I found out
10 the contract, again, was altered.

11 JUDGE MORAN: But, Mr. Feder, the contract that
12 you say was altered was Exhibit No. 2.

13 MR. FEDER: Correct.

14 JUDGE MORAN: You had, and you, yourself,
15 provided Exhibit 2, did you not?

16 MR. FEDER: Yes.

17 JUDGE MORAN: So, I understand that you had a
18 copy in your possession.

19 MR. FEDER: No. Wait, wait, wait. Exhibit
20 No. 2 was faxed to me on September 26th. I did not
21 know about Exhibit No. 2 until after I cancelled the
22 contract and I asked for it through an e-mail in my

1 Exhibit 3. In my group, I asked for this contract
2 that they had to see if it was different than mine.
3 It was after the fact that I found out. So, I did
4 not know that they altered the contract until they
5 faxed it to me, which was done on or about
6 September 29th. You'll see in one of my e-mails in
7 Group 3.

8 Let's see. Yes, I wrote Jeff on
9 September 27th. I did not know what POTS services
10 was. And I said, This agreement is vague. And I
11 asked him to send it to me, which he did. So, that
12 was after I cancelled the contract that I saw this
13 contract that was altered. So, I did not know at
14 the time that I cancelled it that they had a
15 different contract than mine.

16 JUDGE MORAN: Okay. And then let me go back to
17 Ms. Natemeyer.

18 Q What is different between these two
19 contracts?

20 A Referring to Exhibits 1 and 2?

21 Q Uh-hum.

22 A On Page 1, the "Requested Due Date" is

1 different and that is just for internal purposes,
2 basically.

3 Q Where is that?

4 A I'm sorry. It's the second box down, where
5 it says, "Requested Due Date." And on Exhibit 2,
6 "ASAP" is entered, that's for our provisioning
7 department.

8 Q Okay. So, in other words, on the contract
9 that's Exhibit 1, there is no date --

10 A Correct.

11 Q -- requested. And on Exhibit No. 2, which
12 was signed on -- by the carrier's representative --

13 A Correct.

14 Q -- and in this case Access One, it was
15 signed on 5-11, and at that point someone inserted
16 the "ASAP" date.

17 A Correct.

18 On Page 2, we had filled in more of
19 the vendor information for -- again, for internal
20 purposes, for our provisioning department.

21 Q Yes.

22 A The quantity of voice channels still says

1 "7 voice."

2 Q No, it seems to say "7" on Exhibit 1 and
3 "6" on Exhibit 2.

4 A That's for ported.

5 Q And what does that mean?

6 A The quantity of voice channels is,
7 basically, how many phone lines do you have active.
8 And it looks like one of their numbers was a remote
9 call forward number, which means it's not an actual
10 phone line, it's forwarded within the switch. So,
11 since this is not a physical line, it cannot be
12 forwarded to a circuit. So, it looks like that
13 distinction was made from 7 to 6.

14 Other than a listing name for the
15 directory listing, that looks like the only couple
16 of things on Page 2.

17 Q What about -- it's on my point to you --

18 A Sure.

19 Q -- under "Circuit Configuration," there is
20 something here called a "Hunting Arrangement"?

21 A Yes.

22 Q And the second line was checked off as

1 "FIFO," first in, first out.

2 A Right.

3 Q And now that is removed in Exhibit No. 2,
4 and why?

5 A Because this is an Access One circuit and
6 it looks like the sales person checked a box that
7 only applies to a XO communications circuit. So, it
8 looks like it was taken off for -- so, it wouldn't
9 confuse the provisioner.

10 Q So, this is more internal --

11 A It is.

12 Q -- stuff in this box.

13 A It is.

14 Q It really has nothing to do with the
15 contract.

16 A No.

17 Q It has more to do with your internal
18 directions or --

19 A Yes. So, that the provisioner can enter it
20 a certain way into the system.

21 There are a lot of fields that are
22 required for provisioning purposes that really have

1 nothing to do with the contract other than they need
2 to know the information to make it work.

3 Page 3, Exhibit 1, has a number with a
4 "312" prefix, that is different from the other
5 "773," which, basically means that it can't be at
6 the same location.

7 So, it looks like on Exhibit 2, our
8 order processing department caught that and said
9 that, You cannot port in our remote call forward
10 number.

11 Q Okay. When you can't do that, what
12 happened here? You took that number out?

13 A Yes. We took it out from porting it to the
14 IVAD because it would make the number not work.

15 Q Okay. Is there money involved here --

16 A No.

17 Q -- when you do something like that?

18 A If anything, it's cheaper, because he's not
19 going to have to pay for that additional line.

20 Q So, you're not really taking that line out
21 of service --

22 A Oh, no. If we ported it to the IVAD, it

1 would be out of service.

2 Q Okay. So, you're not taking it out of
3 service and it's not incurring a cost to the
4 customer.

5 A No. If we --

6 Q Trying to follow the money here.

7 A Right.

8 If we ported it onto the IVAD, he
9 would be paying for seven lines instead of six,
10 which would be an extra \$4 fee. And that remote
11 call forward, which I'm assuming points to his main
12 number, would not work. So, we don't do that. If
13 it's not going to work, we don't do it.

14 Q Okay. Then, can you tell me, is there any
15 change that was made to this -- what we've been
16 talking about -- or reflected on Exhibit 2, which is
17 the accepted contract, different -- that is
18 different from Exhibit No. 1, that, in fact, has
19 incurred any additional costs for the customer?

20 A No.

21 Q Nothing.

22 A Yes. Because the fact that we can only

1 port six lines instead of seven, it's saving the
2 customer \$4, because he wouldn't have to pay for
3 that additional voice line. He would only have six
4 lines going onto his IVAD.

5 Q Okay. So, there's no difference in the
6 contract -- while I'm talking about this contract,
7 both as it appears in Exhibit 1 and Exhibit No. 2, I
8 notice at the bottom that this is confidential and
9 proprietary information, am I correct?

10 MR. SOBEK: Yes.

11 JUDGE MORAN: Then, you would be making a motion
12 that this be kept out of the public record and in
13 the confidential and proprietary record?

14 MR. SOBEK: Yes, I will.

15 JUDGE MORAN: Okay. With that, we're changing
16 the designation of Complainant's Exhibit No. 1 and
17 Exhibit No. 2 to attach and make both of these
18 proprietary.

19 Q Ms. Natemeyer, what do you see as the
20 problem here? You see the only difference being,
21 based on the contract, as you understand it, and I
22 understand that you're not a lawyer --

1 A Sure.

2 Q -- that the only problem -- or the
3 situation that has caused a problem with billing and
4 charges here is the fact that this IVAD wasn't put
5 in.

6 A Yes. That the numbers were not ported.

7 Q Which, according to this contract, you're
8 telling me is indicated here by the fact that demark
9 was not extended -- or does that have anything to do
10 with it?

11 A The only thing that that has to do with, is
12 that -- well, I guess it does, because we brought
13 the circuit to the demarcation point and we were
14 told to leave it at that point.

15 Q That signifies or would signify that then
16 you're only going to a certain point.

17 A Right.

18 Q A person or vendor -- actually, the vendor
19 then needs to be brought in, either by the
20 customer -- the customer chooses his own vendor or
21 signs his own vendor.

22 A Correct.

1 Q And if he is unable, or she is unable, to
2 get the vendor, you can recommend a vendor.

3 A As a courtesy. Yes. And the reason we do
4 that is because a lot of -- larger corporations have
5 contracts with vendors that they have to abide by.

6 Q I understand.

7 A So, that is the way we have always done it.
8 Yes.

9 Q And this agreement that demark would not
10 be extended is indicated in both Exhibit 1 and
11 Exhibit 2?

12 A Yes, it is.

13 Q And nothing is different.

14 A No, it is not.

15 Q And are you also telling me that because
16 Swiss Products, through Mr. Feder, or on behalf of
17 Mr. Feder, did not timely get the vendor in, which
18 caused billing or charges prior to the use of these
19 lines?

20 A Yes.

21 Q Does that make sense? Tell me again.

22 A You're saying --

1 Q I'm trying to figure out --

2 A Because Swiss Products, Mr. Feder, did not
3 have a vendor come right away, we were still billing
4 for the POTS and the IVAD once it was accepted, is
5 that what you're asking me?

6 Q Yeah. I'm trying to figure out -- what's
7 the irregularity in billing? Because that's what
8 this seems to boil down to. There's an irregularity
9 in billing. There's either a double billing -- and
10 I don't mean that in a bad way. I'm saying billing
11 for two different kinds of things --

12 A Sure.

13 Q -- because one has not taken over the
14 other.

15 A Correct. That is correct.

16 And the reason that we do it that way,
17 the reason that we keep the POTS lines active until
18 they're ported over is because otherwise there would
19 be an interruption in service.

20 Q Right. Okay.

21 A And since we are a reseller, we are being
22 charged for those POTS lines, so we carry that

1 charge forward to our customers.

2 MR. FEDER: May I ask a question?

3 THE WITNESS: Yes.

4 MR. FEDER: May I ask a question?

5 THE WITNESS: Sure.

6 JUDGE MORAN: Sure. Absolutely.

7 MR. FEDER: Access One is giving the impression
8 that the remote calling would have been cheaper had
9 it not been ported over, that's not correct, because
10 I get billed separately for having that remote
11 forward calling number. And every time someone
12 calls that number and it goes to my other number to
13 get the phone, I get charged so much per minute.
14 And Access One has not explained that at all. They
15 give you the impression that the remote calling
16 would have been cheaper the way they altered the
17 contract for me if I had just stayed with it. And
18 that is not true. Because had I known about the
19 remote calling back in April, I would have never
20 gone forward with the contract because I know how
21 expensive it is for this remote calling.

22 For example, this phone call today --

1 I've been on the phone for two hours. I get charged
2 4 cents a minute when someone calls this number even
3 though it goes to my other number to pick it up.

4 And Access One still does not admit
5 that they would bill me under the POTS service for
6 the remote call forwarding number, plus the number
7 of units used in that number. That is the whole
8 basis of this contract. And I wanted that remote
9 call forwarding and all six numbers, everything
10 together on one price, 399. And then there's no way
11 they could fulfill that because they still would
12 have to bill me for remote call forwarding and all
13 the units used going to the ported numbers, that's
14 my major objection.

15 JUDGE MORAN: Okay. Do you have any comment on
16 that?

17 THE WITNESS: Sure. I didn't mean to say that
18 the remote call forward was cheaper if left off the
19 IVAD. I meant that the IVAD was cheaper without the
20 remote call forward.

21 MR. FEDER: But, you didn't explain that the
22 remote call forward still would have incurred

1 charges under the POTS system.

2 THE WITNESS: Well -- okay, yes, a remote call
3 forward line is just that, it's a number that
4 forwards to a physical POTS line.

5 MR. FEDER: And I would still get a bill for the
6 call forwarding. According to this contract, on
7 Exhibit 2, I would still get a bill for the call
8 forwarding remote number and all the units of every
9 minute used, am I correct?

10 THE WITNESS: The minutes used are actually on
11 the number that it's forwarding to.

12 MR. FEDER: You didn't answer my question.

13 The call remote forwarding gets billed
14 a flat fee, plus every minute that someone calls
15 that number, even though it goes to another number
16 for me to pick up, I still get charged so many
17 minutes, is that correct?

18 THE WITNESS: The flat fee is correct. I am not
19 certain on how the permanent rates work.

20 MR. FEDER: See, that's why this contract is no
21 good, because my assumption was the call remote
22 forwarding would be covered for 399. And when your

1 company found out they couldn't cover it, no one
2 notified me. You continued on with the contract as
3 if everything was under my approval. That is the
4 whole basis of this disagreement.

5 MR. SOBEK: Mr. Feder, you approved for us to
6 disconnect your remote call forwarding number and
7 take all your phones down for your business.

8 MR. FEDER: No, I agreed to an April 11
9 contract.

10 MR. SOBEK: No. That phone number, if we had
11 ported it to the IVAD, you would have lost that
12 phone number. It would have gone back into the
13 general numbers. Someone else would have taken
14 that. No one --

15 MR. FEDER: Your company came to me with a
16 proposal. You gave me the impression, in writing,
17 you can do all this. You knew about my call remote
18 forwarding. Now, you find out you have a problem
19 and you don't notify me. You continue on with the
20 contract as if I am aware of these problems and I am
21 not. That's where the problem is.

22 MR. SOBEK: Well, Mr. Feder, you keep changing

1 this. You're saying that the agreement you signed
2 is the only one that should be valid.

3 MR. FEDER: No, I'm not saying that. I'm
4 saying, the agreement that I signed gave me the
5 impression that all this services that I had
6 currently would be no problem.

7 What I'm saying is, when you did find
8 a problem, your company did not notify me. Not only
9 did you not notify me, you continued on with the
10 contract as if I approved these changes. That's the
11 difference.

12 MR. SOBEK: And as a controller for the company,
13 you're aware when you sign a contract, and it says
14 in there that any representations made before that
15 are invalid. And everything that we agreed to is in
16 the paperwork. You know, as a controller for a
17 company, that's what you're agreeing to. You asked
18 us --

19 MR. FEDER: You provided the information. I
20 didn't provide the information. You provided the
21 information for me in the contract. That's the
22 difference. You came to me with this information

1 and said, We can do this for you, Mr. Feder. That's
2 the difference.

3 MR. SOBEK: Mr. Feder, you signed -- I don't
4 know what transpired there, but you signed --

5 JUDGE MORAN: You're not arguing with the
6 witness here. You can ask questions. But nothing
7 is served by --

8 MR. SOBEK: I understand.

9 Mr. Feder, as a controller, you
10 understand when you sign an agreement, what you sign
11 is going to be the binding agreement between the
12 parties.

13 MR. FEDER: If there are no complications. But,
14 obviously, there were complications that were not
15 brought up to my attention. How do you explain
16 that? You did not bring to my attention these
17 complications.

18 JUDGE MORAN: Okay.

19 MR. SOBEK: In issues where you have a contract
20 dispute -- I guess my question here is, if this is a
21 contract dispute this is not a matter which is for
22 the Commission, is it a contractual problem, which I

1 assume that they have other means. It seems like a
2 legal issue to me, and I don't know if --

3 JUDGE MORAN: Well, it's not that we don't
4 handle legal issues.

5 MR. FEDER: Correct.

6 JUDGE MORAN: I'm not sure that we handle strict
7 contract interpretations.

8 So, I'm going to know a little more
9 about this case when I get those exhibits -- or
10 those data responses from the company, the ALJ data
11 responses. At that point when I examine these, I
12 may need to set another date for this.

13 So, at this point, let me continue the
14 matter, generally, until I get a better feel for
15 where we're going on this.

16 Okay, Mr. Feder?

17 MR. FEDER: Yes.

18 JUDGE MORAN: I will send notice of either a new
19 date -- and I expect we will probably need one more
20 date. And I will call you again, the way we've done
21 today.

22 MR. FEDER: Okay.

1 JUDGE MORAN: It will be much shorter, I assure
2 you.

3 MR. FEDER: Okay.

4 JUDGE MORAN: And that's it.

5 MR. FEDER: Okay.

6 JUDGE MORAN: Do you have any more questions of
7 Ms. Natemeyer while she's here today?

8 MR. FEDER: No.

9 JUDGE MORAN: Thank you.

10 (Witness excused.)

11 JUDGE MORAN: And you have no questions for
12 Mr. Feder?

13 MR. SOBEK: No further questions.

14 JUDGE MORAN: Okay. So, we're going to continue
15 this matter generally, because we will also need to
16 decide about admitting the exhibits.

17 Okay. Thank you very much.

18 MR. FEDER: Okay. Thank you.

19 (Whereupon, the above-entitled
20 matter was continued
21 sine die.)
22